UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BRUNO HOFMANN v. PHILIP LAUGHLIN, et al.	Civ. No. 04-10027-JLT

APPENDIX IN SUPPORT OF MOTION OF DEFENDANTS ALBERT ERANI, PHILIP LAUGHLIN, DONNA ABELLI LOPOLITO, MICHAEL SABOLINSKI, ALAN TUCK, AND HERBERT STEIN FOR SUMMARY JUDGMENT

Jeffrey B. Rudman (BBO #433380)
Jonathan A. Shapiro (BBO #567838)
Peter A. Spaeth (BBO #545202)
Eric D. Levin (BBO #639717)
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
(617) 526-6000

Attorneys for Albert Erani, Donna Abelli Lopolito, Philip Laughlin, Michael Sabolinski, and Alan Tuck

Peter M. Saparoff (BBO #441740)
Breton T. Leone-Quick (BBO #655571)
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo PC
One Financial Center
Boston, MA 02109
(617) 542-6000

Attorneys for Herbert Stein

Dated: April 18, 2007

Chart of Challenged Statements

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 1</u> Press Release Nov. 15, 1999 (Compl. ¶ 68)	"Apligraf is a revolutionary technology developed to provide significant advantages in wound healing. Apligraf is FDA approved, well-received by physicians and can be a highly cost-effective therapy for many patients. The key remaining piece of the puzzle is gaining broad, standardized reimbursement. Achieving standardized reimbursement for Apligraf is a top priority at both Novartis and Organogenesis and is being addressed aggressively by both companies."	Stein	Arcari Ades Erani Laughlin Lopolito Sabolinski Tuck
<u>Statement 2</u> 10-Q for Q3:99 Nov. 15, 1999 (Compl. ¶ 70)	"We expect Apligraf commercial sales to increase." "Production costs exceeded product sales due to the start-up costs of new product introduction and the high costs associated with low volume production. We expect production volume to increase and our margins to improve. We expect to continue to expand manufacturing operations and advance the product pipeline during the remainder of 1999 and into 2000."	Stein Lopolito	Arcari Ades Erani Laughlin Sabolinski Tuck
<u>Statement 3</u> Press Release Dec. 2, 1999 (Compl. ¶ 69)	"Organogenesis Inc. [] today announced that in November a record number of Apligraf® US commercial units were sold and a record number of US medical centers ordered Apligraf for the first time." "'The growth now being seen is due to new Apligraf marketing and sales initiatives by Novartis and is independent of the efforts underway to gain standardized reimbursement for the product,' said Alan Tuck, Chief Strategic Officer."	Tuck	Arcari Ades Erani Laughlin Lopolito Sabolinski Stein

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 4</u> Presentation at Hambrecht & Quist Annual Healthcare Conference Jan. 13, 2000 (Compl. ¶ 73)	Plaintiffs do not allege any particular statement, only that "Laughlin reiterated former guidance and further conditioned investors to believe that the Company was operating according to plan."	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck
<u>Statement 5</u> Interview with The Wall Street Transcript Jan. 14, 2000 (Compl. ¶ 73)	"We're in the process of changing medical practice, and that has gone slower than we'd like. But we're not concerned that we won't ultimately be successful."	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck
<u>Statement 6</u> Amended 10-Q for Q3:99 Feb. 14, 2000 (Compl. ¶¶ 74, 75)	"We expect Apligraf commercial sales to increase." "The accompanying unaudited consolidated financial statements of Organogenesis Inc., have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying consolidated financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the financial position, results of operations and changes in cash flows for the periods presented. The results of operations for the nine months ended September 30, 1999 are not necessarily indicative of the results to be expected for the year ending December 31, 1999." "Production costs exceeded product sales due to the start-up costs of new product introduction and the high costs associated with low volume production. We expect production volume to increase and our margins to improve. We expect to continue to expand manufacturing operations and advance the product pipeline during the remainder of 1999 and into 2000."	Laughlin Lopolito	Arcari Ades Erani Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***Not Attributed To Defendants***
Statement 7 Press Release Feb. 24, 2000 (Compl. ¶ 77)	"We are pleased the strong interest in our Company resulted in an over-subscription to this offering."	Tuck	Arcari Ades Erani Laughlin Lopolito Sabolinski Stein
Statement 8 Press Release Mar. 31, 2000 (Compl. ¶ 84)	"Organogenesis Inc. [] today reported financial results for the fourth quarter and year ended December 31, 1999. The results are consistent with the transition in progress from a research-focused company to a research-based operating company with a novel medical product in introduction phase." "For the year ended December 31, 1999, revenue from product sales to related party and others was $1.8 million, compared with $1.1 million in 1998. Total revenues were $3.6 million for 1999, compared with $9.0 million in 1998, which included $6.8 million in milestone payments from Novartis Pharma AG. Total expenses (including manufacturing, research and development, and general and administrative costs) were $31.9 million in 1999, compared with $23.0 million in 1998. Net loss was $0.93 per share (or $28.4 million) for 1999 compared with a net loss of $0.48 per share (or $14.0 million) for 1998." "The increase in expenses was primarily due to: strengthening our employee base through additions to our production, research and support teams; costs to support publication studies and other sponsored programs, as well as increased activities in our corporate communications and business development functions; interest expense on the convertible debt issued last March; expanding our production and warehouse capacity while consolidating our administrative space; and the acquisition of intellectual property and assets from Baxter Healthcare Corporation." "'Prior to the US commercialization of Apligraf, our corporate focus needed to be on supporting the validity of the product concept through solid research, clinical trials and manufacturing consistency,' said Philip M. Laughlin, President and Chief Executive Officer. 'Now, as sales of Apligraf begin to develop, our focus must include driving down per unit manufacturing costs through the development and implementation of more efficient methods of production. At the same time, we are continuing to support other programs in our pipeline — the VITRIX(TM) living soft tissue replacement product, the vascular graft, the liver assist device — important to our longer term growth.'"	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 9</u> 10-K for 1999 March 31, 2000 (Compl. ¶ 85)	"Based upon our current plans, we believe that common stock issued subsequent to December 31, 1999, together with existing working capital and future funds from Novartis, including product and royalty revenue, will be sufficient to finance operations into 2001. However, this statement is forward-looking and changes may occur that would significantly decrease available cash before such time. Factors that may change our cash requirements include: delays in obtaining regulatory approvals of products in different countries, if needed, and subsequent timing of product launches; delays in commercial acceptance and reimbursement when product launches occur; changes in the progress of research and development programs; and changes in the resources devoted to outside research collaborations or projects, self-funded projects, proprietary manufacturing methods and advanced technologies." "We currently have limited experience in sales, marketing and distribution and may need to develop long-term strategic relationships with partners, such as Novartis, that have marketing and sales forces with technical expertise and distribution capability. To the extent that we enter into such relationships, our revenues will depend upon the efforts of third parties who may or may not be successful. We may or may not be able to establish or maintain long-term strategic relationships, and if we do, our collaborators may not be successful in gaining market acceptance for our products….We are dependent on Novartis for the successful marketing and selling of Apligraf worldwide. If Novartis does not succeed in marketing and selling Apligraf or gaining international approvals for the product or if we are unable to meet the production demand of global commercialization, our operating results will suffer." "We expect Apligraf commercial sales to continue to increase." "Cost of product sales exceeded product sales due to the start-up costs of new product introduction and the high costs associated with low volume production. We expect production volume to increase and our margins to improve. We expect to continue to expand production operations during the next 12 months." "We are seeing, as expected, a gradual ramp-up in sales. We expect production costs to exceed product sales for the near term due to start-up expenses and the high costs associated with low volume production. However, we expect production volume to increase."	Erani Laughlin Lopolito	Arcari Ades Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***Not Attributed To Defendants***
Statement 10 Press Release May 11, 2000 (Compl. ¶ 89)	"Organogenesis Inc. [] today reported financial results for its first quarter ended March 31, 2000. These results are consistent with the Company's ongoing transition from being a research company to being a research-based operating company." "Revenue from product sales to related party and others were $646,000 for the first quarter of 2000 compared with $543,000 for the fourth quarter of 1999. The growth in product revenue was due to increased sales of Apligraf® to Novartis. Total revenues were $1,084,000 for the first quarter of 2000 compared with $1,015,000 for the fourth quarter of 1999. Total costs and expenses were $7,770,000 for the first quarter of 2000 compared with $9,368,000 for the fourth quarter of 1999, which had included disproportionately higher occupancy and financing costs. Net loss was $0.21 per share (or $6,686,000) for the first quarter of 2000 compared with $0.27 per share (or $8,353,000) for the fourth quarter of 1999." "The first quarter of 2000 product revenues of $646,000 compare with $318,000 for the first quarter of 1999. The total revenues of $1,084,000 compare with $679,000 for the same quarter in 1999 and the total costs and expenses of $7,770,000 compare with $6,605,000 for the same quarter in 1999. The net loss of $0.21 per share (or $6,686,000) compares with a net loss of $0.19 per share (or $5,926,000) for the same quarter in 1999." "'Key to Apligraf sales development are two factors: obtaining approval for diabetic foot ulcers and gaining standardized Apligraf reimbursement,' said Philip M. Laughlin, President and Chief Executive Officer. 'The Advisory Panel's recommendation earlier this week is a key achievement towards the diabetic foot ulcer indication. We are equally committed to gaining standardized reimbursement for Apligraf.'"	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 11</u> 10-Q for Q1:00 May 15, 2000 (Compl. ¶ 90)	Same financial information as announced in Statement 10. "The accompanying unaudited consolidated financial statements of Organogenesis Inc. have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying consolidated financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the financial position, results of operations and changes in cash flows for the periods presented. The results of operations for the three months ended March 31, 2000 are not necessarily indicative of the results to be expected for the year ending December 31, 2000." "Cost of product sales: Cost of product sales was $1,191,000 for the three months ended March 31, 2000, compared to $603,000 for the same period in 1999, due to increased unit sales of Apligraf to Novartis. Cost of product sales includes the direct costs to manufacture and package Apligraf and an allocation of our production related indirect costs. Cost of product sales exceeded product sales due to the start-up costs of new product introduction and the high costs associated with low volume production. We expect production volume to increase and our margins to improve. We expect to continue to expand production operations during 2000."	Arcari Laughlin	Ades Erani Lopolito Sabolinski Stein Tuck
<u>Statement 12</u> Interview on CNBC's Power Lunch June 26, 2000 (Compl. ¶ 94)	Organogenesis "can become profitable and will become profitable with Apligraf alone. The two main drivers of that are diabetic foot ulcer approval which happened last week and getting that standardized Medicare reimbursement, which has been slow going. We're optimistic. It hasn't happened yet."	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 13</u> Press Release Aug. 2, 2000 (Compl. ¶ 95)	"Month Held Notable Achievements Significant to Future Sales Development" "'While sales during this summer vacation period were somewhat soft, July held two key achievements which we believe will significantly impact Apligraf sales development over time,' said Philip Laughlin, President and Chief Executive Officer. 'First, Novartis held a national salesforce meeting to officially kick off the launch of Apligraf for the treatment of diabetic foot ulcers, just approved by the FDA in June; and Apligraf was included on a listing of products that qualify for Medicare reimbursement when used in a hospital outpatient setting. Inclusion on this listing means that sites such as hospital-affiliated wound care centers can recover the cost of Apligraf when this new program goes into effect in August.'"	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck
<u>Statement 14</u> Press Release Aug. 14, 2000 (Compl. ¶¶ 96, 97)	"Organogenesis is in the process of transitioning from being a research company to becoming an operating company with a strong research base." "For the second quarter of 2000, total revenues were $6.4 million compared with $0.9 million for the same quarter in 1999. The 2000 revenues include a $5 million milestone payment from Novartis that was received in March and earned in June with the approval of Apligraf for diabetic foot ulcers. Total costs and expenses were $8.5 million during the second quarters of both 2000 and 1999. The 1999 expenses included a non-cash charge of $0.9 million for a technology-related acquisition, while the 2000 expenses show modest increases across each expense category. Net loss was $2.0 million ($0.06 per share), compared with a net loss of $7.6 million ($0.25 per share) for the same quarter in 1999." "The Company had $22.3 million in cash, cash equivalents and investments at June 30, 2000." "Philip M. Laughlin, President and Chief Executive Officer, said, 'When we announced our first quarter results three months ago, we stated our commitment to achieving two important drivers of Apligraf sales: FDA approval for diabetic foot ulcers and Medicare reimbursement for the product's cost. We now have tangible achievements in both areas. Apligraf was approved for diabetic foot ulcers in June and its marketing was launched by Novartis in July. Effective this month, Apligraf qualifies for Medicare reimbursement when used in the hospital outpatient setting, such as a hospital-affiliated wound care center. There has also been progress in gaining Medicare reimbursement for Apligraf applied in the doctor's office, with additional activities underway.'" "We have further strengthened our manufacturing and management team" with the addition of a new Vice President of Operations in June 2000.	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***Not Attributed To Defendants***
Statement 15 10-Q for Q2:00 Aug. 14, 2000 (Compl. ¶ 98)	Same financial information as announced in Statement 14. "The accompanying unaudited consolidated financial statements of Organogenesis Inc. have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying consolidated financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the financial position, results of operations and changes in cash flows for the periods presented. The results of operations for the six months ended June 30, 2000 are not necessarily indicative of the results to be expected for the year ending December 31, 2000." "Cost of product sales: Cost of product sales was $1,243,000 and $2,434,000 for the three and six months ended June 30, 2000, compared to $1,126,000 and $1,730,000 for the same periods in 1999, due to increased unit sales of Apligraf to Novartis. Cost of product sales includes the direct costs to manufacture and package Apligraf and an allocation of our production related indirect costs. Cost of product sales continues to exceed product sales due to the high costs associated with low volume production. We expect production volume to increase and our margins to improve. We expect to continue to expand production operations during 2000."	Arcari Laughlin	Ades Erani Lopolito Sabolinski Stein Tuck
Statement 16 Press Release Oct. 3, 2000 (Compl. ¶ 99)	"Organogenesis Inc. [] today announced that US commercial sales of lead product Apligraf® were 1081 units in September, bringing quarterly sales for the product to a record 3232 units." "Third quarter Apligraf achievements – the launch for diabetic foot ulcers, expanding access under Medicare, expansion of the Apligraf field force – laid an important foundation for future sales development."	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***Not Attributed To Defendants***
Statement 17 Press Release Nov. 14, 2000 (Compl. ¶ 101)	"Organogenesis is in the process of transitioning from being a research Company to becoming an operating Company with a strong research base." "For the three months ended September 30, 2000, total revenues were $1.4 million compared with $0.9 million for the same quarter in 1999. The increase was due to increased product sales to related party and others and increased income from grants and interest. Total costs and expenses were $8.3 million during the third quarter of 2000 compared with $7.4 million for the same quarter in 1999. The increase was due to increased cost of product sales, research and development expenses, interest expense and general and administrative expenses. Net loss was $6.9 million ($0.20 per share), compared with a net loss of $6.5 million ($0.21 per share) for the same quarter in 1999." "Philip M. Laughlin, President and Chief Executive Officer, said, 'This summer we made important progress in several areas central to Apligraf sales development. Apligraf was approved and launched for diabetic foot ulcers, qualified for Medicare reimbursement when used in the hospital outpatient setting and marketer Novartis expanded the field force selling the product. We believe the Apligraf sales growth seen in the third quarter is the beginning of the effect of these achievements on sales development. While unit volumes are still small, which adversely affects our cost of production, the trend is encouraging.'"	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck
Statement 18 10-Q for Q3:00 Nov. 14, 2000 (Compl. ¶ 102)	Same financial information as announced in Statement 17. "The accompanying unaudited consolidated financial statements of Organogenesis Inc. have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying consolidated financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the financial position, results of operations and changes in cash flows for the periods presented. The results of operations for the nine months ended September 30, 2000 are not necessarily indicative of the results to be expected for the year ending December 31, 2000." "Cost of product sales: Cost of product sales was $1,310,000 and $3,744,000 for the three and nine months ended September 30, 2000, compared to $969,000 and $2,699,000 for the same periods in 1999, due to increased unit sales of Apligraf to Novartis. Cost of product sales includes the direct costs to manufacture and package Apligraf and an allocation of our production related indirect costs. Cost of product sales continues to exceed product sales due to the high costs associated with low volume production. We expect production volume to increase and our margins to improve."	Arcari Laughlin	Ades Erani Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 19</u> Press Release Dec. 4, 2000 (Compl. ¶ 103)	"Organogenesis Inc. [] today announced that US commercial sales of lead product Apligraf® were 1488 units in November, a new monthly record." "'We are clearly beginning to see acceleration in the growth of Apligraf sales,' said Philip Laughlin, President and Chief Executive Officer. 'October and November establish a new, higher sales base on which to build. While it is difficult to predict how the December holidays will impact sales, we expect to begin seeing in the first quarter the impact of the additional sales representatives that started this past summer.'"	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck
<u>Statement 20</u> Press Release Dec. 6, 2000 (Compl. ¶ 105)	"'The decision to authorize a stock buyback program demonstrates the confidence our Board has in the Company's future,' said Philip Laughlin, President and Chief Executive Officer. 'Our Board is sensitive to shareholder dilution and views current market conditions as an opportunity to purchase shares that the Company considers to be undervalued in view of our prospects.'"	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck
<u>Statement 21</u> Press Release Feb. 5, 2001 (Compl. ¶ 106)	"Organogenesis Inc. [] today announced that US commercial sales of lead product Apligraf® were 1771 units in January, another new monthly sales record for the product." "We are pleased with the acceleration being seen in Apligraf sales growth"	Arcari	Ades Erani Laughlin Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 22</u> Interview on CNBC's Power Lunch Feb. 28, 2001 (Compl. ¶ 107)	GRIFFETH: What kind of an increase in revenue do you expect from this expansion of the deal with Novartis? LAUGHLIN: Let me just run through the deal. And you are right, it is a turning point for us. It is a major improvement in our economic situation. Unfortunately, I can't give you the precise details of the deal but let me – GRIFFETH: Because they are not known or? LAUGHLIN: We certainly know them. We are not at liberty with Novartis to disclose them. But let me tell you the major elements of what it is. We have granted Novartis the rights to two additional living tissue products, one that will be entering clinical trials in the next 30 to 60 days and one that is in research. In exchange for that, we will receive a substantial increase in the percentage of the revenue for our living tissue product, which is actually on the market today, called Apligraf. We will also receive funding for a number of different areas which will enable us to expand our business, get into additional markets and drive down our costs. We also received a $20 million stock put. So any time during the next three years we are able at our discretion and our option to sell Novartis $20 million of shares. We may or may not do that, but it is wonderful safety net to have in our pocket. GRIFFETH: Right. Now, as far as the product agreement goes, though, I know you are meeting with Wall Street analysts to talk about this. Are you raising guidance, though, as far as revenue for this year as a result of this? LAUGHLIN: What we are doing and the thing people have been most interested in is giving them guidance on our profitability. What we now feel with the increased revenue, with the funding support that we will get, we are now targeting to pass through break even and reach profitability in the second quarter of next year — sorry, the third quarter of next year. GRIFFETH: Third quarter of next year. OK. And as a result of this, I am curious, I mean are you finding or at least receiving approval for new applications for Apligraf? I am wondering why Novartis is doing this now. I know I should ask them but maybe you can provide some guidance on that. LAUGHLIN: I think they are truly convinced that there is major business here. We have had approval for venous leg ulcers. If you have poor leg circulation you can have these ulcers. We received approval last summer for diabetic foot ulcers, which can be life threatening. We have in clinical trial a third indication, this is for skin cancer surgery. We are seeing that sales, we are both seeing our sales truly being to accelerate because we have also made major strides forward with getting Medicare coverage. Everything is coming together. I think they are saying, yes, this is working. This is going to be a very big business. Let's get into it deeper. Let's commit to the business. *******	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
	GRIFFETH: Now and you factor, when you provide this guidance for break even, is that a part of that guidance of the anticipated approval of those products and when they might be available for market? LAUGHLIN: As we look into the things that go into our break even we are targeting to reach break even with or without those approvals. One thing that we will hit before break even is we hope to be approved for launch into the European market in approximately the second quarter of next year.		
<u>Statement 23</u> Press Release Mar. 5, 2001 (Compl. ¶ 110)	"Organogenesis Inc. [] today announced that US commercial sales of lead product Apligraf® were 1729 units in February." "'Apligraf sales are showing sustained growth acceleration,' said John Arcari, Chief Financial Officer. 'Average daily sales in February surpassed those in January, and both are ahead of the level seen in our record fourth quarter. We are particularly pleased with this acceleration, because under the recently amended agreement with Novartis, Organogenesis now receives significantly higher payments for Apligraf.'"	Arcari	Ades Erani Laughlin Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***Not Attributed To Defendants***
Statement 24 Press Release Mar. 30, 2001 (Compl. ¶ 112)	"For the three months ended December 31, 2000, total revenues were $1.5 million compared with $0.9 million for the same quarter in 1999. Product sales to related party were $0.9 million in 2000 compared with $0.5 million in 1999 due to increased sales of Apligraf.…Total operating costs and expenses were $8.5 million during the fourth quarter of 2000 compared with $8.9 million for the same quarter in 1999. The fourth quarter of 2000 had increased cost of product sales – due to increased sales of Apligraf – and reduced research and development and general and administrative expenses. Net loss was $7.4 million ($0.21 per share) for the fourth quarter of 2000 compared with a net loss of $8.4 million ($0.27 per share) for the same quarter in 1999." "For the year ended December 31, 2000, total revenues were $10.2 million compared with $2.7 million in 1999. Product sales to related party were $3.0 million in 2000 compared with $1.8 million in 1999 due to increased sales of Apligraf. The 2000 full-year revenues include a $5 million milestone payment from Novartis for our achievement of FDA approval of Apligraf for diabetic foot ulcers. Full- year revenues also include $1.1 million in research and development support from Novartis recognized in 2000 under SAB 101. Total operating costs and expenses were $31.6 million in 2000 compared with $30.6 million in 1999. The 2000 results reflect increased cost of product sales – due to increased sales of Apligraf – and decreased research and development and general and administrative expenses. Net loss was $22.3 million ($0.66 per share) in 2000 compared with a net loss of $28.4 million ($0.93 per share) in 1999. When the one-time cumulative effect charge against income due to adoption of SAB 101 is included, the 2000 net loss becomes $28.6 million ($0.85 per share)." "Philip Laughlin, President and Chief Executive Officer, said, 'Our increased product revenue in the fourth quarter reflects a significant increase in our unit sales growth rate, compared to the prior quarter. Our first quarter 2001 financials will show an important increase in revenue due to a continuation of this higher unit growth rate as well as the significantly higher revenue per unit which we now receive from Novartis. We are keeping a tight control on our corporate expenses while implementing programs to reduce our manufacturing costs.'"	Laughlin	Arcari Ades Erani Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 25</u> 10-K for 2000 Mar. 30, 2001 (Compl. ¶ 113)	"Apligraf is mass-produced, available to physicians on demand and does not require hospitalization for use." "The 2001 amendment to our 1996 agreement with Novartis significantly increases payments we receive for Apligraf units" "We currently have limited experience in sales, marketing and distribution and have developed a long-term strategic relationship with Novartis, who has marketing and sales forces with technical expertise and distribution capability. Our revenues will depend upon the efforts of Novartis, who may or may not be successful in marketing and selling Apligraf or gaining international approvals for the product. We may not be able to maintain our long-term strategic relationship with Novartis. To the extent that we choose not to maintain our relationship with Novartis, we may need more capital and resources to undertake a commercialization program at our own expense. In addition, we may encounter significant delays in introducing Apligraf into certain markets or find that they commercialization of Apligraf in such markets may be adversely affected by the absence of a collaborative agreement." "The process of manufacturing our products is complex, requiring strict adherence to manufacturing protocols. We have been producing our lead product, Apligraf, for commercial sale since the second half of 1997 in adherence with these manufacturing protocols. However, with increasing demand for Apligraf, we must further transition from small-scale to full-scale production of our products. If we do not make the full-scale transition successfully, we will not be able to satisfy the demand for our products and our results of operations will be hurt." "We are currently at low volume production as Apligraf has, to date, shown a gradual ramp-up in sales. We expect production costs to exceed product sales for at least the next 18 months due to the high costs associated with low volume production. We expect production volume to increase due to recent Medicare progress with coverage for Apligraf, FDA approval of Apligraf for use in diabetic foot ulcers and expanded Novartis sales and marketing support." "Based upon our current plans, we believe existing working capital at December 31, 2000, together with the proceeds of product and other revenues in 2001 and proceeds available from exercising a portion or all of a $20,000,000 equity security put with Novartis, which is at our discretion, will be sufficient to finance operations through at least the first quarter of 2002. We expect to raise additional funds in 2001 through equity financing. However, this statement is forward-looking and changes may occur that would significantly decrease available cash before such time. Factors that may change our cash requirements include: sales volume forecasts not achieved; delays in obtaining regulatory approvals of products in different countries, if needed, and subsequent timing of product launches; delays in commercial acceptance and reimbursement when product launches occur; changes in the progress of research and development programs; and changes in the resources devoted to outside research collaborations or projects, self-funded projects, proprietary manufacturing methods and advanced technologies."	Arcari Erani Laughlin	Ades Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***Not Attributed To Defendants***
Statement 26 Press Release Apr. 27, 2001 (Compl. ¶ 117)	"Organogenesis Inc. Announces First Quarter of 2001 Financial Results; Product Revenues Nearly Triple Over Prior Year Period" "These results reflect the Company's amended agreement with Novartis Pharma AG, which provides Organogenesis with significantly higher payments for units of the Company's Apligraf® cellular skin substitute and with funding support in agreed-upon areas." "For the three months ended March 31, 2001, total revenues were $2.5 million compared with $1.2 million for the same quarter in 2000. Product sales to related party were $1.8 million in the first quarter of 2001, compared with $0.6 million for the same period in 2000, due to increased sales of Apligraf and the higher payments Organogenesis now receives from Novartis for each unit of Apligraf." "Total operating costs and expenses were $8.6 million during the first quarter of 2001 compared with $7.3 million for the same quarter in 2000. The first quarter of 2001 cost of product sales increased by $0.7 million due to increased sales of Apligraf. During the same period, research and development costs increased by $0.6 million due to increased clinical, process development and product development expenses. General and administrative expenses decreased slightly. Net loss was $6.5 million ($0.19 per share) for the first quarter of 2001 compared with a net loss of $6.4 million ($0.21 per share) for the same quarter in 2000. When the one-time cumulative effect in change in accounting principle charge due to the adoption of SEC Staff Accounting Bulletin No. 101 - "Revenue Recognition in Financial Statements" is included, the first quarter of 2000 net loss becomes $12.8 million ($0.41 per share)." "'John Arcari, Chief Financial Officer, said, 'Our product margin improved significantly over last year. Not only did product revenue increase, but per unit costs decreased as a result of process improvements. We tightly controlled our corporate expenses while increasing our investment in process development to further reduce manufacturing costs. Under our amended agreement with Novartis, we received nearly $1.0 million in the first quarter of 2001 for manufacturing facility improvements.'"	Arcari	Ades Erani Laughlin Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***Not Attributed To Defendants***
Statement 27 10-Q for Q1:01 Apr. 27, 2001 (Compl. ¶ 118)	Same financial information as announced in Statement 26. “The accompanying unaudited consolidated financial statements of Organogenesis Inc. have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying consolidated financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the financial position, results of operations and changes in cash flows for the periods presented. The results of operations for three months ended March 31, 2001 are not necessarily indicative of the results to be expected for the year ending December 31, 2001.” “Cost of product sales: Cost of product sales increased 50% to $2,196,000 in the first quarter of fiscal 2001, from $1,467,000 for the comparable quarter last year, due to increased unit sales of Apligraf to Novartis. Cost of product sales includes the direct costs to manufacture and package Apligraf and an allocation of our production related indirect costs. Cost of product sales continues to exceed product sales due to the high costs associated with low volume production. We expect production volume to increase and our margins to continue to improve during 2001.” “Based upon our current plans, we believe existing cash and cash equivalents at March 31, 2001, together with the proceeds of product and other revenues in 2001 and proceeds available from exercising a portion or all of a $20,000,000 equity security put with Novartis, which is at our discretion, will be sufficient to finance operations through at least the first quarter of 2002. We expect to raise additional funds in 2001 through equity financing. However, this statement is forward-looking and changes may occur that would significantly decrease available cash before such time. Factors that may change our cash requirements include: sales volume forecasts not achieved; delays in obtaining regulatory approvals of products in different countries, if needed, and subsequent timing of product launches; delays in commercial acceptance and reimbursement when product launches occur; changes in the progress of research and development programs; and changes in the resources devoted to outside research collaborations or projects, self-funded projects, proprietary manufacturing methods and advanced technologies.”	Arcari Laughlin	Ades Erani Lopolito Sabolinski Stein Tuck
Statement 28 Press Release June 5, 2001 (Compl. ¶ 125)	“Organogenesis Inc. [] today announced that US commercial sales of lead product Apligraf® were 1758 in May.” “Dr. Michael Sabolinski, President and Chief Executive Officer, said, ‘The May sales figures show sustained support for Apligraf use, and we have accelerated our plans to ramp up production to meet the strong growth forecast for the second half of this year.’”	Sabolinski	Arcari Ades Erani Laughlin Lopolito Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 29</u> Press Release Aug. 2, 2001 (Compl. ¶ 128)	"Organogenes is Inc. [] today announced that US commercial sales of lead product Apligraf® were 2015 in July -- a new monthly record -- and compare with 1673 US commercial units sold in June." "Dr. Michael Sabolinski, President and Chief Executive Officer, said, 'We are delighted with the growth in sales seen between June and July. Apligraf unit sales have multiple drivers in place: the expanded access to Apligraf among Medicare patients, the 2000 approval for diabetic foot ulcers, and the increased sales and marketing support behind the product. We are planning accelerating growth in Apligraf production to meet the increasing demand anticipated.'"	Sabolinski	Arcari Ades Erani Laughlin Lopolito Stein Tuck
<u>Statement 30</u> Press Release Aug. 7, 2001 (Compl. ¶ 129)	"Organogenesis Inc. [] today announced the Company is to sell $10 million in equity to Novartis Pharma AG. Earlier this year, Organogenesis announced the signing of an amended agreement with Novartis that included granting Organogenesis the right to sell, and its discretion, up to $20 million in equity to Novartis."	Arcari	Ades Erani Laughlin Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 31</u> Press Release Aug. 13, 2001 (Compl. ¶ 130)	"During the second quarter of 2001, there was sustained market demand for Apligraf® and the Company accelerated its plans to ramp up production to meet the strong sales forecast for the second half of this year. In July 2001, Apligraf US commercial unit sales set a new monthly record of 2015 units, which compares with 1673 units in June. To date, over 30,000 people across the US have been treated with Apligraf, the majority of whom received the product in the past twelve months." "Reflecting the growth in product sales and the 2001 amendment to the agreement with Novartis, for the three months ended June 30, 2001, product sales to related party were $1.7 million in 2001 compared with $0.7 million for the same period in 2000. Total operating revenues were $2.1 million in the second quarter of 2001 compared with $1.3 million for the same quarter in 2000, excluding a $5 million milestone payment from Novartis for the approval of Apligraf for diabetic foot ulcers. Total operating costs and expenses were $ 9.lmillion during the second quarter of 2001 compared with $8.0 million for the same quarter in 2000, excluding a $1.2 million ($0.04 per share) one-time severance expense in 2001 for a former executive officer. Cost of product sales increased by $1.3 million due to increased sales of Apligraf and ramping up production to meet anticipated increased demand; research and development as well as general and administrative costs slightly decreased. Net loss was $8.6 million ($0.25 per share) for the second quarter of 2001 compared with a net loss of $1.8 million ($0.05 per share) for the same quarter in 2000." "John Arcari, Chief Financial Officer, said, 'Our year-to-date revenue from product sales is nearly triple that of the same period last year. Our cost of goods per unit compares favorably with the same period last year, but is up moderately from the previous quarter due to accelerating our plans to ramp up production. To strengthen our cash position, we have exercised our right to sell Novartis $10 million in equity. We retain the right to sell Novartis an additional $10 million in equity.'"	Arcari	Ades Erani Laughlin Lopolito Sabolinski Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 32</u> 10-Q for Q2:01 Aug. 14, 2001 (Compl. ¶¶ 131, 132)	Same financial information as announced in Statement 31. "The accompanying unaudited consolidated financial statements of Organogenesis Inc. have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying consolidated financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the financial position, results of operations and changes in cash flows for the periods presented. The results of operations for the six months ended June 30, 2001 are not necessarily indicative of the results to be expected for the year ending December 31, 2001." "Cost of product sales: Cost of product sales for the quarter ended June 30, 2001 increased 82% to $2,837,000, from $1,557,000 for the comparable quarter last year. Cost of product sales for the six-month period ended June 30, 2001 increased 66% to 5,033,000, from $3,024,000 for the comparable period last year. These increases were due to increased unit sales of Apligraf to Novartis, additional scrap costs and higher allocations of depreciation and occupancy costs. Cost of product sales includes the direct costs to manufacture, quality inspect and package Apligraf and an allocation of our production-related indirect costs. Cost of product sales continues to exceed product sales due to the high costs associated with low volume production. We expect production volume to increase and our margins to continue to improve during 2001. We expect that we will have to revise standard costs and the allocation of costs to product sales in the future as we continue to modify our manufacturing processes." "In May 2001, we entered into a separation of employment agreement with a former executive officer, which resulted in the recording of a one-time severance expense of $1,233,000 during the quarter ended June 30, 2001. The separation of employment agreement provides for amounts to be paid over two years and supercedes the previous employment agreement. It has been filed as exhibit 10(ff) to this Form 10Q."	Arcari Sabolinski	Ades Erani Laughlin Lopolito Stein Tuck
<u>Statement 33</u> Press Release Sept. 6, 2001 (Compl. ¶ 135)	"Organogenesis Inc. [] today announced that US commercial sales of its lead product, Apligraf® (Graftskin), were 2150 in August, up 7 percent from the record of 2,015 units set in July." "Dr. Michael Sabolinski, President and Chief Executive Officer, said, 'We are pleased with the sustained strength in Apligraf sales that has been seen through the summer months. We are on track for the third quarter of 2001 to have substantially higher sales than our record second quarter.'"	Sabolinski	Arcari Ades Erani Laughlin Lopolito Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***Not Attributed To Defendants***
Statement 34 Press Release Sept. 7, 2001 (Compl. ¶ 136)	"Dr. Michael Sabolinski, President and Chief Executive Officer, said, 'Our Company is now producing Apligraf at a rate of over 40,000 units per year. I am pleased that the manufacturing ramp-up I committed to when I became CEO in May is on track. We anticipate increasing this production rate in the near term to meet forecasted demand. The demand has been driven by an increase in sales and marketing activity, the diabetic foot ulcer supplement approval, and favorable reimbursement policies in the hospital and physician's office.'"	Sabolinski	Arcari Ades Erani Laughlin Lopolito Stein Tuck
Statement 35 Press Release Sept. 24, 2001 (Compl. ¶ 138)	"Organogenesis Inc. [] today announced the Company expects to begin commercializing three of its own products during the fourth quarter of 2001. These products will be marketed directly by Organogenesis using its own marketing personnel and highly targeted sales force, advancing the Company from a research, clinical/regulatory, manufacturing company to a fully integrated medical products company." "Dr. Michael Sabolinski, President and Chief Executive Officer, said, 'Commercializing our own products, with our own sales and marketing team, brings Organogenesis to a new stage. We receive the full revenue from the products we commercialize ourselves, which will add to our revenue stream beginning in October. We look forward to these products contributing to the overall profitability of the Company. Having our own sales force also paves the way for Organogenesis commercializing additional products in the future.'"	Sabolinski	Arcari Ades Erani Laughlin Lopolito Stein Tuck
Statement 36 Press Release Oct. 4, 2001 (Compl. ¶ 139)	"Organogenesis Inc. [] today announced that 6606 units of its lead product Apligraf® (Graftskin) were shipped in the third quarter of 2001." "Michael Sabolinkski, M.D., President and Chief Executive Officer said, 'This has been a very significant quarter for the Company. Apligraf sales continue to increase and the product is now reimbursed by Medicare in all fifty states. With our marketing partner, Novartis, we were able to provide Apligraf for victims of the September 11 terrorist attacks. In addition, we received marketing clearance for the third FortaFlex(TM)-based product, FortaGen(TM), and plan to launch four new products in October by an Organogenesis Institutional sales force.'"	Sabolinski	Arcari Ades Erani Laughlin Lopolito Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 37</u> Press Release Oct. 16, 2001 (Compl. ¶ 141)	"Organogenesis Inc. [] today announced that it has received an aggregate of $20.25 million from recent financing activities, including $10 million from Novartis and an additional $10.25 million from two equity placements." "'We are pleased to have completed this round of financing, an important step in achieving key corporate milestones including realizing profitability sooner,' said Dr. Michael Sabolinski, President and Chief Executive Officer of Organogenesis. 'Furthermore, these proceeds will enable us to accelerate additional key programs for our lead product, Apligraf, and other notable products in our development pipeline.'"	Sabolinski	Arcari Ades Erani Laughlin Lopolito Stein Tuck
<u>Statement 38</u> Press Release Nov. 13, 2001 (Compl. ¶ 143)	"Organogenesis Inc. [] today reported its financial results for the third quarter and nine months ended September 30, 2001. Product sales to related party were $2.2 million in the third quarter of 2001, representing a 211% increase over $0.7 million for the same period in 2000. This increase reflects the growth in Apligraf® unit sales and the new pricing in the 2001 amended agreement with Novartis. Total revenues increased 124% to $3.0 million in the third quarter of 2001 compared with $1.3 million for the same quarter in 2000. Total operating costs and expenses were $9.8 million during the third quarter of 2001 compared with $7.7 million for the same quarter in 2000. Cost of product sales increased by $1.7 million due to increased sales of Apligraf and costs related to ramping up production to meet anticipated future increased Apligraf demand. Research and development costs decreased slightly to $4.1 million compared to $4.4 million in 2000. Selling, general and administrative costs increased by $0.7 million primarily due to selling expenses related to preparations for the commercial launches of the Company's FortaPerm(TM), FortaGen(TM) and Revitix(TM) products. Net loss was $7.4 million or $0.21 per share for the third quarter of 2001 compared with a net loss of $6.7 million or $0.19 per share for the same quarter in 2000." "Michael Sabolinski, M.D., President and Chief Executive Officer, said, 'Our latest financial results reflect our strategy of implementing programs to support the success of Apligraf, while embarking on initiatives that will position us to capitalize on additional opportunities in the emerging tissue engineering sector.'"	Sabolinski	Arcari Ades Erani Laughlin Lopolito Stein Tuck

Statement Source	***Challenged Statement***	***Attributed To Defendant(s)***	***<u>Not</u> Attributed To Defendants***
<u>Statement 39</u> 10-Q for Q3:01 Nov. 14, 2001 (Compl. ¶ 144)	Same financial information as announced in Statement 38. "The accompanying unaudited consolidated financial statements of Organogenesis Inc. have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying consolidated financial statements include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the financial position, results of operations and changes in cash flows for the periods presented. The results of operations for the nine months ended September 30, 2001 are not necessarily indicative of the results to be expected for the year ending December 31, 2001." "Cost of product sales: Cost of product sales for the quarter ended September 30, 2001 increased 110% to $3,268,000, from $1,557,000 for the comparable quarter last year. Cost of product sales for the nine-month period ended September 30, 2001 increased 81% to $8,301,000, from $4,581,000 for the comparable period last year. These increases were due to increased unit sales of Apligraf to Novartis, higher allocation of depreciation and occupancy costs, and increased scrap charges during the month of September due to the suspension of commercial sales of Apligraf following the September 11, 2001 terrorist attack. Cost of product sales includes the direct costs to manufacture, quality inspect and package Apligraf and an allocation of our production-related indirect costs. Cost of product sales continues to exceed product sales due to the high costs associated with low volume production. We expect production volume to increase and our margins to continue to improve during the remainder of 2001. We expect that we will have to revise standard costs and the allocation of costs to product sales in the future as we continue to modify our manufacturing processes."	Arcari Sabolinski	Ades Erani Laughlin Lopolito Stein Tuck